HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: - Hon'ble Shri S.R. NAYAK, CJ

W.P. NO. 5913 OF 2005

PETITIONERS

1. Laxman Sahu, aged about 55 years, S/o Late Parsadi Sahu,
2. Raj Kumar Sahu, aged about 24 years, S/o Laxman Sahu,
Both R/o ward no. 3, Chikhali, Distt. Rajnandgaon, C.G.

Versus

RESPONDENTS

1. State of Chhattisgarh, the Secretary Home Department, DKS Bhawan, Raipur C.G.
2. Inspector General of Police State of Chhattisgarh, Raipur, Distt. Raipur, C.G.
3. Superintendent of Police, Centra Bureau of Investigation, State of C.G., Raipur, Distt. Raipur, C.G.
4. Superintendent of Police Rajnandgaon, Distt. Rajnandgaon, C.G.
5. Incharge, police station City Kotwali Rajnandgaon, Distt. Rajnandgaon, C.G.

Present:

Mr. Vishnu Koshta, learned counsel for the petitioners.

Mr. Sandeep Dubey, learned Govt. Advocate for the State.

O R D E R

(Passed on 28th November 2005)

The crux of the allegations in this writ petition is that the prosecution has falsely implicated petitioner no. 2 for the offence punishable under Section 307 of the Indian Panel Code for collateral and

extraneous consideration. The petitioners having so alleged have sought for the following reliefs:-

> 7. Relief(s) sought:
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> In view of the facts and grounds stated above, the petitioner seeks issue of the following relief(s):-
>
> 1. That the Hon'ble Court may kindly issue a direction to respondents to investigate the matter by Central Bureau of Investigation or any other independent agency in the interest of justice.
> 2. That the Hon'ble Court may kindly direct the respondent no. 4 to produce the entire record pertaining to the petitioners complain as well as the police registered the case against the petitioner no. 2 as crime no. 122/2005 an offence punishable U/s 307 of IPC by City Kotwaly Rajnandgaon.
> 3. Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner together with cost of the petition.

2. The writ petition itself discloses that the petitioners were aware of the fact that the jurisdictional police having investigated into the allegations, have filed charge sheet before the jurisdictional Sessions Court and the same is numbered as S.T. No. 32/2005. In the first place, the question whether the second petitioner is falsely implicated in the case or not is a disputed question of fact and this Court in a summary proceeding under Article 226 of the Constitution of India would not be well-advised to undertake resolution of such disputed fact. Secondly, the Sessions Court before which the charge sheet is filed cannot be said to lack jurisdiction to try the case. Thirdly, if there is no legal basis or evidence to implicate the second petitioner, the second petitioner will undoubtedly has right of defence in the trial to sustain his stand. Fourthly,

the writ petition is filed at a belated stage after the jurisdictional police have investigated into the alleged crime and filing charge sheet before the jurisdictional Sessions Court. Looking from any angle, it is, therefore, not appropriate for this Court to step-in under Article 226 of the Constitution of India and interfere with the trial. The writ petition is dismissed. However, I make it clear that by this order it should not be understood that the Court has expressed any opinion on several allegations made by the petitioners in the course of writ petition and they are left open to be agitated at an appropriate stage as law permits.

Sd/-
Chief Justice

Bidesh